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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,003	03/18/2004	Robert E. Alling	59584-010101	7800
33717	7590	12/29/2005	EXAMINER	
GREENBERG TRAURIG LLP 2450 COLORADO AVENUE, SUITE 400E SANTA MONICA, CA 90404			FLETCHER, MARLON T	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/805,003

Applicant(s)

ALLING, ROBERT E.

Examiner

Marlon T. Fletcher

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-11, and 13-16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Griner et al. (6,614,729) in view of Lewis (5,464,946) and Moe (2001/0029829).

As recited in claims 1, 9, and 16, Griner et al. disclose a method for presenting music information to a viewer from a media, delivering music information to a viewer via the Internet (column 11, lines 19-24) the method comprising: recording on the media, through audio and video means, the music information relating to the performance, wherein the music information includes content from a musical instrument played by a performer (column 4, line 60 through column 5, line 17)., and presenting to the viewer the music information on the media, through a plurality of windows, wherein at least one window depicts a view of the musical instrument being played by the performer (column 4, line 64 through column 5. Line 3., and column 6. lines 12-23).

As recited in claim 2, Griner et al. disclose the method, wherein the media are at Least one of a CD capable of recording musical information (column 4, Lines 43-46\*, and column 5, lines 12-15)

Although inherent from video means, Griner et al. do not actually show the display or viewer, nor a plurality of windows on a single display.

However, Lewis (claims 1, 9, and 16) provides a system for recording a musical performance, wherein video means are provided for presenting to the viewer the music information on the media via the Internet (column 3, Lines 44-46), through a plurality of windows, wherein at least one window depicts a view of the musical instrument being played by the performer (figure 2A and 2C; column 3, Lines 40-53: and column 4, Lines 4-14).

Lewis (claims 3, 4, 10, and 11) provides the method, wherein at Least one window is used for presenting textual information, wherein the textual information includes music notes (wherein the text is a score; inherently having notes; column 3, Lines 63-66).

Lewis (claim 6-8 and 13-15) provides the method, wherein at Least one window is used for providing visual feedback of the performer playing the musical instrument, wherein the musical instrument is a piano or other instrument, wherein the view of the instrument is obtained by a camera positioned substantially above the instrument (figure 2C; and column 4, Lines 4-14).

With respect to claims 1, 9, and 16, Moe discloses a method for presenting music information to a viewer from a media, wherein the music information includes content from a musical instrument played by a performer and presenting to the viewer

the music information on the media, through a plurality of windows on a single display as disclosed in the abstract and as seen in figures 3-6.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Lewis with the apparatus of Griner et al., because Griner et al. provide the use of video means and Lewis enhances the teachings by providing more details to the method of recording and displaying a musical performance.

3. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griner et al. (6,614,729) in view of Lewis (5,464,946) and Moe (2001/0029829) as applied to claims 1-4, 6-11, and 13-16 above, and further in view of Platt (2003/0221541).

Griner et al., Lewis, and Moe are discussed above. Neither reference provides information including the name, place, or composition information.

However, Platt discloses the method, wherein the textual information includes at least one of a name of the performer, the place of performance, the date of the performance, composer information, and composition information (abstract, figure 2, and pg 2, paragraph 31).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Platt with the combination of Griner et al. in view of Lewis and Moe, because the enhancement adds information to the display which identifies the performance.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO form 892.

***Response to Arguments***

5. Applicant's arguments filed 10/12/2005 have been fully considered but they are not persuasive.

The applicant argues that Griner et al. do not disclose a plurality of windows and Lewis does not disclose a plurality of windows on a single display. Further applicant argues that Platt does not disclose a plurality windows. Griner et al. is the primary reference. Lewis and Platt are secondary references. The secondary references provide the missing elements or steps not provided in the primary reference. Clearly the limitations are met in the combination. While Griner et al. do not actually show the display, Lewis provides a plurality of windows. The claims have been amended to include the plurality of windows on a single display. Neither reference in the previous office action actually provides this illustration. However, this is very well known feature as shown in Moe. The claimed limitations are met by the prior art.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T. Fletcher whose telephone number is 571-272-2063. The examiner can normally be reached on M-w, F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MTF  
December 26, 2005



MARLON T. FLETCHER  
PRIMARY EXAMINER